IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 2352 of 1987

For Approval and Signature:

HONOURABLE MR.JUSTICE K.A.PUJ

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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H M DALAL & 5 - Petitioner(s)

Versus

MUNI. CORPN. OF AHMEDABAD & 3 - Respondent(s)

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Appearance :
MR DD VYAS for Petitioner(s) : 1 - 6.
MR BP TANNA for Respondent(s) : 1,
MR SN SHELAT for Respondent(s) : 2,
NOTICE NOT RECD BACK for Respondent(s) : 3 - 4.

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CORAM : HONOURABLE MR.JUSTICE K.A.PUJ

Date : 16/01/2006

ORAL JUDGMENT

1. The petitioners have filed this petition under Article 226 of the Constitution of India praying for quashing and setting aside the resolution dated 22/04/1987 passed by the Hospital Committee (Annexure-E) and resolution No.274 of 1987-88 passed by the Standing Committee of the respondent corporation in the meeting held by it on 11.05.1987 (Annexure-F). During the pendency of the petition, the petitioner has also sought for amendment which was granted by this Court on 12.08.1987 whereby the petitioner has also prayed for quashing and setting aside the resolution no.93 passed by the respondent no.1 on 26th June, 1987.

2. Rule was issued on 26.10.1988. However, interim relief was refused. On behalf of the respondent, an affidavit in reply was filed by the Deputy Municipal Commissioner (Health and

Hospitals) of respondent no.1 Corporation on 2nd June, 1987. It is stated in Para-10 of the said affidavit in reply that there were no posts of Honorary Assistant Professors permanently vacant at any of the General Hospitals, and, therefore, the question of making appointment of any of the persons out of the select lists did not arise. However, as and when permanent vacancies have occurred at the aforesaid Municipal Hospitals, appointments have been made on such permanently vacant posts of Honorary Assistant Professors out of the selected candidates strictly in accordance with their rank in the select list.

3. Subsequent to the aforesaid affidavit filed on behalf of the respondent corporation, an amendment was sought for in the petition and the same was granted by this Court on 12/08/1987. The Dy.Commissioner has filed affidavit in reply on 27/08/1987 to the amended petition wherein also the stand taken earlier

by the corporation was reiterated.

4. In view of the stand taken by the respondent corporation in affidavit in reply filed on its behalf on 2nd June, 1987 and 27th August, 1987, Mr.D.D.Vyas, learned Senior Counsel appearing for the petitioner submits that the grievance of the petitioner does not survive and the petition may be disposed of accordingly.

5. In the above view of the matter, since the grievance of the petitioner does not survive the petition has become infructuous and accordingly disposed of.

6. Rule is discharged without any order as to costs.

(K.A.PUJ, J.)

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